

CHAPTER 34A

ENHANCED 911 EMERGENCY TELEPHONE SYSTEMS

Referred to in §16.161, 423.3

[P]

This chapter not enacted as a part of this title; transferred from chapter 477B in Code 1993

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SUBCHAPTER I

LOCAL OPTION E911 SERVICE SURCHARGE AND E911 SERVICE

Referred to in §34A.20

34A.1 Purpose.

The general assembly finds that enhanced 911 emergency telephone communication systems and other emergency 911 notification devices further the public interest and protect the health, safety, and welfare of the people of Iowa. The purpose of this chapter is to enable the orderly development, installation, and operation of enhanced 911 emergency telephone communication systems and other emergency 911 notification devices statewide. These systems are to be operated under governmental management and control for the public benefit.

- 88 Acts, ch 1177, §1
- C89, §477B.1
- C93, §34A.1
- 2004 Acts, ch 1175, §444

34A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Access line" means an exchange access line that has the ability to access dial tone and reach a public safety answering point.
2. "Administrator" means the administrator of the homeland security and emergency management division of the department of public defense.

3. “*Communications service*” means a service capable of accessing, connecting with, or interfacing with a 911 system by dialing, initializing, or otherwise activating the system exclusively through the digits 911 by means of a local telephone device or wireless communications device.

4. “*Communications service provider*” means a service provider, public or private, that transports information electronically via landline, wireless, internet, cable, or satellite.

5. “*Competitive local exchange service provider*” means the same as defined in section 476.96.

6. “*Emergency communications service surcharge*” means a charge established by the program manager in accordance with section 34A.7A.

7. “*Enhanced 911*” or “*E911*” means a service that provides the user of a communications service with the ability to reach a public safety answering point by using the digits 911, and that has the following additional features:

a. Routes an incoming 911 call to the appropriate public safety answering point.

b. Automatically provides voice, displays the name, address or location, and telephone number of an incoming 911 call and public safety agency servicing the location.

8. “*Enhanced 911 service area*” means the geographic area to be serviced, or currently serviced under an enhanced 911 service plan, provided that an enhanced 911 service area must at minimum encompass one entire county. The enhanced 911 service area may encompass more than one county, and need not be restricted to county boundaries.

9. “*Enhanced 911 service plan*” means a plan that includes the following information:

a. A description of the enhanced 911 service area.

b. A list of all public and private safety agencies within the enhanced 911 service area.

c. The number of public safety answering points within the enhanced 911 service area.

d. Identification of the agency responsible for management and supervision of the enhanced 911 emergency communication system.

e. (1) A statement of estimated costs to be incurred by the joint E911 service board or the department of public safety, including separate estimates of the following:

(a) Nonrecurring costs, including but not limited to public safety answering points, network equipment, software, database, addressing, training, and other capital expenditures, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider.

(b) Recurring costs, including but not limited to network access fees and other telephone charges, software, equipment, and database management, and maintenance, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs shall not include personnel costs for a public safety answering point.

(2) Funds deposited in an E911 service fund are appropriated and shall be used for the payment of costs that are limited to nonrecurring and recurring costs directly attributable to the receipt and disposition of the 911 call. Costs do not include expenditures for any other purpose, and specifically exclude costs attributable to other emergency services or expenditures for buildings or personnel, except for the costs of personnel for database management and personnel directly associated with addressing.

f. Current equipment operated by affected local exchange service providers, and central office equipment and technology upgrades necessary for the provider to implement enhanced 911 service within the enhanced 911 service area.

g. A schedule for implementation of the plan throughout the E911 service area. The schedule may provide for phased implementation.

h. The number of telephone access lines capable of access to 911 in the enhanced 911 service area.

i. The total property valuation in the enhanced 911 service area.

j. A plan to migrate to an internet protocol-enabled next generation network.

10. “*Local exchange carrier*” means the same as defined in section 476.96.

11. “*Local exchange service provider*” means a vendor engaged in providing telecommunications service between points within an exchange and includes but is not limited to a competitive local exchange service provider and a local exchange carrier.

12. “*Prepaid wireless telecommunications service*” means a wireless communications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

13. “*Program manager*” means the E911 program manager appointed pursuant to section 34A.2A.

14. “*Provider*” means a vendor who provides, or offers to provide, E911 equipment, installation, maintenance, or exchange access services within the enhanced 911 service area.

15. “*Public or private safety agency*” means a unit of state or local government, a special purpose district, or a private firm which provides or has the authority to provide fire fighting, police, ambulance, emergency medical services, or hazardous materials response.

16. “*Public safety answering point*” means a twenty-four-hour public safety communications facility that receives enhanced 911 service calls and directly dispatches emergency response services or relays calls to the appropriate public or private safety agency.

17. “*Wireless communications service*” means commercial mobile radio service. “*Wireless communications service*” includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network access line. “*Wireless communications service*” does not include a service whose customers do not have access to 911 or 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

18. “*Wireless communications service provider*” means a company that offers wireless communications service to users of wireless devices including but not limited to cellular, personal communications services, mobile satellite services, and enhanced specialized mobile radio.

19. “*Wireless E911 phase 1*” means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and address of the tower that received the call to the appropriate public safety answering point.

20. “*Wireless E911 phase 2*” means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

21. “*Wire-line E911 service surcharge*” means a charge set by the E911 service area operating authority and assessed on each wire-line access line which physically terminates within the E911 service area in accordance with section 34A.7.

88 Acts, ch 1177, §2

C89, §477B.2

92 Acts, ch 1139, §34

C93, §34A.2

93 Acts, ch 125, §1; 94 Acts, ch 1199, §45; 98 Acts, ch 1101, §3, 4, 16; 2004 Acts, ch 1175, §445; 2008 Acts, ch 1032, §201; 2012 Acts, ch 1111, §1

Referred to in §34A.6A, 34A.7

[T] Section amended

34A.2A Program manager — appointment — duties.

1. The administrator of the homeland security and emergency management division of the department of public defense shall appoint an E911 program manager to administer this chapter.

2. The E911 program manager shall act under the supervisory control of the administrator of the homeland security and emergency management division of the department of public defense, and in consultation with the E911 communications council, and perform the duties specifically set forth in this chapter and as assigned by the administrator.

98 Acts, ch 1101, §5, 16; 2004 Acts, ch 1175, §446

Referred to in §16.161, 34A.2

34A.3 Joint E911 service board — 911 service plan — implementation — waivers.1. *Joint E911 service boards — plans.*

a. The board of supervisors of each county shall maintain a joint E911 service board.

(1) Each political subdivision of the state having a public safety agency serving territory within the county is entitled to voting membership on the joint E911 service board. For the purposes of this section, a township that operates a volunteer fire department providing fire protection services to the township, or a city which provides fire protection services through the operation of a volunteer fire department not financed through city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county. Each private safety agency operating within the area is entitled to nonvoting membership on the board.

(2) A township that does not operate its own public safety agency, but contracts for the provision of public safety services, is not entitled to membership on the joint E911 service board, but its contractor is entitled to membership according to the contractor's status as a public or private safety agency.

b. The joint E911 service board shall maintain an enhanced 911 service plan encompassing at minimum the entire county, unless an exemption is granted by the program manager permitting a smaller E911 service area.

(1) The program manager may grant a discretionary exemption from the single county minimum service area requirement based upon a joint E911 service board's or other E911 service plan operating authority's presentation of evidence which supports the requested exemption if the program manager finds that local conditions make adherence to the minimum standard unreasonable or technically infeasible and that the purposes of this chapter would be furthered by granting an exemption. The minimum size requirement is intended to prevent unnecessary duplication of public safety answering points and minimize other administrative, personnel, and equipment expenses.

(2) The program manager may order the inclusion of a specific territory in an adjoining E911 service plan area to avoid the creation by exclusion of a territory smaller than a single county not serviced by surrounding E911 service plan areas upon request of the joint E911 service board representing the territory.

c. The E911 service plan operating authority shall submit proposed changes to the plan to all of the following:

- (1) The program manager.
- (2) Public and private safety agencies in the enhanced 911 service area.
- (3) Local exchange service providers affected by the enhanced 911 service plan.

2. *Compliance waivers available in limited circumstances.*

a. The program manager may extend the time period for plan implementation by issuing a compliance waiver.

b. The compliance waiver shall be based upon a joint E911 service board's presentation of evidence which supports an extension if the program manager finds that local conditions make implementation financially unreasonable or technically infeasible by the originally scheduled plan of implementation.

c. The compliance waiver shall be for a set period of time, and subject to review and renewal or denial of renewal upon its expiration.

d. The waiver may cover all or a portion of a 911 service plan's enhanced 911 service area to facilitate phased implementation when possible.

e. The granting of a compliance waiver does not create a presumption that the identical or similar waiver will be extended in the future.

f. Consideration of compliance waivers shall be on a case-by-case basis.

3. *Chapter 28E agreement — alternative to joint E911 service board.*

a. A legal entity created pursuant to chapter 28E by a county or counties, other political divisions, and public or private agencies to jointly plan, implement, and operate a countywide, or larger, enhanced 911 service system may be substituted for the joint E911 service board required under subsection 1. An alternative legal entity created pursuant to chapter 28E as a substitute for a joint E911 service board, as permitted by this subsection, may be created by either:

- (1) Agreement of the parties entitled to voting membership on a joint E911 service board.
- (2) Agreement of the members of a joint E911 service board.

b. An alternative chapter 28E entity has all of the powers of a joint E911 service board and any additional powers granted by the agreement. As used in this chapter, “*joint E911 service board*” includes an alternative chapter 28E entity created for that purpose, except as specifically limited by the chapter 28E agreement or unless clearly provided otherwise in this chapter. A chapter 28E agreement related to E911 service shall permit the participation of a private safety agency or other persons allowed to participate in a joint E911 service board, but the terms, scope, and conditions of participation are subject to the chapter 28E agreement.

4. *Participation in joint E911 service board required.* A political subdivision having a public safety agency within its territory or jurisdiction shall participate in a joint E911 service board and cooperate in maintaining the E911 service plan.

88 Acts, ch 1177, §3

C89, §477B.3

89 Acts, ch 168, §1, 2

C93, §34A.3

93 Acts, ch 125, §2; 98 Acts, ch 1101, §6, 16; 2004 Acts, ch 1175, §447; 2008 Acts, ch 1032, §143; 2008 Acts, ch 1070, §1; 2012 Acts, ch 1111, §2

[T] Subsection 4 amended

34A.4 Requirements of pay telephones and other telecommunications devices to allow 911 calls without depositing coins or other charge.

In an enhanced 911 service area, a person shall not install or offer for use within the enhanced 911 service area a pay station telephone or other fixed device unless the telephone or device is capable of making a 911 call without prior insertion of a coin or payment of any other charge, and unless the telephone or device displays notice of free 911 service.

88 Acts, ch 1177, §4

C89, §477B.4

C93, §34A.4

2004 Acts, ch 1175, §448

34A.5 Private listing subscribers and 911 service.

Private listing subscribers in an enhanced 911 service area waive the privacy afforded by nonlisted or nonpublished numbers to the extent that the name and address associated with the telephone number may be furnished to the enhanced 911 service system, for all routing, for automatic retrieval of location information, and for associated emergency services.

88 Acts, ch 1177, §5

C89, §477B.5

C93, §34A.5

34A.6 Referendum on E911 in proposed service area.

1. Before a joint E911 service board may request imposition of the wire-line surcharge by the program manager, the board shall submit the following question to voters, as provided in subsection 2, in the proposed E911 service area, and the question shall receive a favorable vote from a simple majority of persons submitting valid ballots on the following question within the proposed E911 service area:

Shall the following public measure be adopted?

YES

NO

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within (description of the proposed E911 service area).

2. The referendum required as a condition of the surcharge imposition in subsection 1 shall be conducted using the following electoral mechanism:

a. At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible general election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area, provided the request is timely submitted to permit inclusion.

b. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day.

c. The county commissioner of elections shall report the results to the joint E911 service board.

d. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

3. The secretary of state, in consultation with the administrator, shall adopt rules for the conduct of joint E911 service referendums as required by and consistent with subsections 1 and 2.

88 Acts, ch 1177, §6

C89, §477B.6

89 Acts, ch 168, §3; 90 Acts, ch 1144, §1; 91 Acts, ch 129, §27, 28; 92 Acts, ch 1139, §35

C93, §34A.6

98 Acts, ch 1101, §7, 16; 2004 Acts, ch 1175, §449; 2008 Acts, ch 1032, §144; 2012 Acts, ch 1111, §3

Referred to in §34A.6A, 34A.7, 34A.7A

[T] Subsection 1 amended

34A.6A Alternative surcharge — temporary moratorium.

1. Notwithstanding section 34A.6, the board may request imposition of an alternative surcharge in an amount up to two dollars and fifty cents per month on each telephone access line. The board shall submit the question of the alternative surcharge to voters in the same manner as provided in section 34A.6. Not less than sixty days before the date of the referendum, the board shall notify all local exchange service providers in the county or counties comprising the E911 service area that a referendum on an alternative surcharge will be held. Not less than thirty days before the date of the referendum, the board shall publish in a newspaper of general circulation in the county or counties comprising the E911 service area a statement of estimated costs as described in section 34A.2, subsection 9, paragraph “e”, subparagraph (1), and justification of the need for the additional revenue. If approved, the alternative surcharge may be collected for a period of twenty-four months. At the end of the twenty-four-month period, the rate of the surcharge shall revert to one dollar per month, per access line.

2. Notwithstanding subsection 1, a temporary moratorium shall be applicable to a new surcharge authorized pursuant to this section until one hundred and fifty days after submission of recommendations by the E911 task force established by 2012 Iowa Acts, chapter 1111, to the general assembly.

93 Acts, ch 125, §3; 2012 Acts, ch 1111, §4

[T] Section amended

34A.7 Funding — wire-line E911 service surcharge.

When an E911 service plan is implemented, the costs of providing E911 service within an E911 service area are the responsibility of the joint E911 service board and the member political subdivisions. Costs in excess of the amount raised by imposition of the E911 service surcharge provided for under subsection 1 shall be paid by the joint E911 service board from such revenue sources allocated among the member political subdivisions as determined by the joint E911 service board. Funding is not limited to the surcharge, and surcharge revenues may be supplemented by other permissible local and state revenue sources. A joint E911 service board shall not commit a political subdivision to appropriate property tax revenues to fund an E911 service plan without the consent of the political subdivision.

A joint E911 service board may approve an E911 service plan, including a funding formula requiring appropriations by participating political subdivisions, subject to the approval of the funding formula by each political subdivision. However, a political subdivision may agree in advance to appropriate property tax revenues or other moneys according to a formula or plan developed by an alternative chapter 28E entity.

1. *Local wire-line E911 service surcharge imposition.*

a. To encourage local implementation of E911 service, one source of funding for E911 emergency communication systems shall come from a surcharge per month, per access line on each access line subscriber, except as provided in subsection 5, equal to the lowest amount of the following:

(1) One dollar.

(2) An amount less than one dollar, which would fully pay both recurring and nonrecurring costs of the E911 service system within five years from the date the maximum surcharge is imposed.

(3) The maximum monetary limitation approved by referendum.

b. The surcharge shall be imposed by order of the program manager as follows:

(1) The program manager shall notify a local exchange service provider scheduled to provide exchange access line service to an E911 service area that implementation of an E911 service plan has been approved by the joint E911 service board and by the service area referendum and that collection of the surcharge is to begin within sixty days.

(2) The program manager shall also provide notice to all affected public safety answering points.

2. *Surcharge collected by local exchange service providers.*

a. The surcharge shall be collected as part of the access line service provider's periodic billing to a subscriber. In compensation for the costs of billing and collection, the local exchange service provider may retain one percent of the gross surcharges collected. If the compensation is insufficient to fully recover a local exchange service provider's costs for billing and collection of the surcharge, the deficiency shall be included in the local exchange service provider's costs for ratemaking purposes to the extent it is reasonable and just under section 476.6. The surcharge shall be remitted to the E911 service operating authority for deposit into the E911 service fund quarterly by the local exchange service provider. The total amount for multiple exchanges may be combined.

b. A local exchange service provider is not liable for an uncollected surcharge for which the local exchange service provider has billed a subscriber but not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing entitled, "E911 emergency communications service surcharge".

c. The joint E911 service board may request, not more than once each quarter, the following information from the local exchange service provider:

(1) The identity of the exchange from which the surcharge is collected.

(2) The number of lines to which the surcharge was applied for the quarter.

(3) The number of refusals to pay per exchange if applicable.

(4) Write-offs applied per exchange if applicable.

(5) The number of lines exempt per exchange.

(6) The amount retained by the local exchange service provider generated from the one percent administration fee.

d. Access line counts and surcharge remittances are confidential public records as provided in section 34A.8.

3. *Maximum limit per subscriber billing for surcharge.* An individual subscriber shall not be required to pay on a single periodic billing the surcharge on more than one hundred access lines, or their equivalent, in an E911 service area. A subscriber shall pay the surcharge in each E911 service area in which the subscriber receives access line service.

4. *E911 service fund.* Each joint E911 service board shall establish and maintain as a separate account an E911 service fund. Any funds remaining in the account at the end of each fiscal year shall not revert to the general funds of the member political subdivisions, except as provided in subsection 5, but shall remain in the E911 service fund. Moneys in an

E911 service fund may only be used for nonrecurring and recurring costs of the E911 service plan as approved by the program manager, as those terms are defined by section 34A.2.

5. *Use of moneys in fund — priority and limitations on expenditure.*

a. Moneys deposited in the E911 service fund shall be used for the repayment of any bonds issued for the benefit of or loan made to the joint E911 service board pursuant to sections 34A.20 through 34A.22, and as long as any such bond or loan remains unpaid the surcharge shall not be reduced or eliminated. Moneys deposited in the fund shall be subject to such terms and conditions as may be contained in the relevant bond documents, trust indenture, resolution, loan agreement, or other instrument pursuant to which bonds are issued or a loan is made, without regard to any limitation otherwise provided by law. The surcharge may be increased, but shall not exceed the maximum allowed in subsection 1, upon approval of the authority upon such terms and conditions as may be contained in the relevant bond documents, trust indenture, resolution, loan agreement, or other instrument pursuant to which bonds are issued or a loan is made, as deemed necessary or prudent by the authority to secure repayment and assure marketability or a reasonable interest rate.

b. Moneys deposited in the E911 service fund shall be used for the following, in order of priority if paragraph “a” does not apply:

(1) Money shall first be spent for actual recurring costs of operating the E911 service plan.

(2) If money remains in the fund after fully paying for recurring costs incurred in the preceding year, the remainder may be spent to pay for nonrecurring costs, not to exceed actual nonrecurring costs as approved by the program manager.

(3) If money remains in the fund after fully paying obligations under subparagraphs (1) and (2), the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the program manager shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget. After nonrecurring costs have been paid, if the surcharge is less than the maximum allowed and the fund surplus is less than twenty-five percent of the approved annual operating budget, the program manager shall, upon application of the joint E911 service board, increase the surcharge in an amount calculated to result in a surplus of twenty-five percent of the approved annual operating budget. The surcharge may only be adjusted once in a single year, upon sixty days’ prior notice to the provider.

6. *Limitation of actions — provider not liable on cause of action related to provision of 911 services.* A claim or cause of action does not exist based upon or arising out of an act or omission in connection with a land-line or wireless provider’s participation in an E911 service plan or provision of 911 or local exchange access service, unless the act or omission is determined to be willful and wanton negligence.

7. *Referendum on adjusting maximum of approved surcharge.* If a local option E911 service surcharge was approved by referendum prior to April 4, 1990, the maximum E911 service surcharge monetary limitation may be amended up to a total of one dollar, per month, per access line, by another referendum as provided in section 34A.6. A joint E911 service board may adjust its E911 service surcharge within the monetary limitation approved by referendum as provided under this subsection by a simple majority vote of the voting members. As a result of the adjustment, the E911 service surcharge, per month, per access line, on each access line subscriber, except as provided in subsection 5, shall not exceed the lowest amount of the following:

a. One dollar.

b. An amount less than one dollar, which would fully pay both recurring and nonrecurring costs of the E911 service system within five years from the date of the adjustment.

c. The maximum monetary limitation approved by referendum.

88 Acts, ch 1177, §7

C89, §477B.7

89 Acts, ch 168, §4 – 6; 90 Acts, ch 1144, §2 – 4

C93, §34A.7

98 Acts, ch 1101, §8, 16; 2004 Acts, ch 1175, §450 – 452; 2005 Acts, ch 140, §1; 2012 Acts, ch 1111, §5 – 8

Referred to in §34A.2, 34A.7B

[T] Subsection 1, paragraph a, unnumbered paragraph 1 amended

[T] Subsection 1, paragraph b, subparagraph (1) amended

[T] Subsection 2, paragraph b amended

[T] Subsection 5, paragraph b, subparagraph (3) amended

34A.7A Emergency communications service surcharge — fund established — distribution and permissible expenditures.

1. *a.* Notwithstanding section 34A.6, the administrator shall adopt by rule a monthly surcharge of up to sixty-five cents to be imposed on each communications service number provided in this state. The surcharge shall be imposed uniformly on a statewide basis and simultaneously on all communications service numbers as provided by rule of the administrator. The surcharge shall not be imposed on wire-line-based communications or prepaid wireless telecommunications service.

b. The program manager shall provide no less than sixty days' notice of the surcharge to be imposed to each communications service provider. The program manager, subject to the sixty-five cent limit in paragraph "a", may adjust the amount of the surcharge as necessary, but no more than once in any calendar year.

c. (1) The surcharge shall be collected as part of the communications service provider's periodic billing to a subscriber. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency communications service.

(2) In compensation for the costs of billing and collection, the communications service provider may retain one percent of the gross surcharges collected.

(3) The surcharges shall be remitted quarterly by the communications service provider to the program manager for deposit into the fund established in subsection 2.

(4) A communications service provider is not liable for an uncollected surcharge for which the communications service provider has billed a subscriber but which has not been paid.

2. Moneys collected pursuant to subsection 1 and section 34A.7B, subsection 2, shall be deposited in a separate E911 emergency communications fund within the state treasury under the control of the program manager. Section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section. Moneys in the fund shall be expended and distributed in the following priority order:

a. An amount as appropriated by the general assembly to the administrator shall be allocated to the administrator and program manager for implementation, support, and maintenance of the functions of the administrator and program manager and to employ the auditor of state to perform an annual audit of the E911 emergency communications fund.

b. The program manager shall reimburse communication service providers on a calendar quarter basis for carriers' eligible expenses for transport costs between the selective router and the public safety answering points related to the delivery of wireless E911 phase 1 services.

c. The program manager shall reimburse wire-line carriers and third-party E911 automatic location information database providers on a calendar quarterly basis for the costs of maintaining and upgrading the E911 components and functionalities beyond the input to the E911 selective router, including the E911 selective router and the automatic location information database.

d. (1) The program manager shall allocate to each joint E911 service board and to the department of public safety a minimum of one thousand dollars per calendar quarter for each public safety answering point within the service area of the department of public safety or joint E911 service board that has submitted an annual written request to the program manager in a form approved by the program manager by May 15 of each year.

(2) The amount allocated under this paragraph "d" shall be forty-six percent of the total amount of surcharge generated per calendar quarter allocated as follows:

(a) Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the service area to the total square miles in this state.

(b) Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls taken at the public safety answering point in the service area to the total number of wireless E911 calls originating in this state.

(c) Notwithstanding subparagraph divisions (a) and (b), the minimum amount allocated to each joint E911 service board and to the department of public safety shall be no less than one thousand dollars for each public safety answering point within the service area of the department of public safety or joint E911 service board.

(3) The funds allocated in this paragraph “d” shall be used for communication equipment utilized by the public safety answering points for the implementation and maintenance of E911 services.

e. If moneys remain in the fund after fully paying all obligations under paragraphs “a” through “d”, the remainder may be accumulated in the fund as a carryover operating surplus. This surplus shall be used to fund future network and public safety answering point improvements, including hardware and software for an internet protocol-enabled next generation network, and wireless carriers’ transport costs related to wireless E911 services, if those costs are not otherwise recovered by wireless carriers through customer billing or other sources and approved by the program manager. Notwithstanding section 8.33, any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

f. The administrator, in consultation with the program manager and the E911 communications council, shall adopt rules pursuant to chapter 17A governing the distribution of the surcharge collected and distributed pursuant to this subsection. The rules shall include provisions that all joint E911 service boards and the department of public safety which answer or service wireless E911 calls are eligible to receive an equitable portion of the receipts.

3. a. The program manager shall submit an annual report by January 15 of each year to the general assembly’s standing committees on government oversight advising the general assembly of the status of E911 implementation and operations, including both wire-line and wireless services, the distribution of surcharge receipts, and an accounting of the revenues and expenses of the E911 program.

b. The program manager shall submit a calendar quarter report of the revenues and expenses of the E911 program to the fiscal services division of the legislative services agency.

c. The general assembly’s standing committees on government oversight shall review the priorities of distribution of funds under this chapter at least every two years.

4. The amount collected from a communications service provider and deposited in the fund, pursuant to section 22.7, subsection 6, information provided by a communications service provider to the program manager consisting of trade secrets, pursuant to section 22.7, subsection 3, and other financial or commercial operations information provided by a communications service provider to the program manager, shall be kept confidential as provided under section 22.7. This subsection does not prohibit the inclusion of information in any report providing aggregate amounts and information which does not identify numbers of accounts or customers, revenues, or expenses attributable to an individual communications service provider.

98 Acts, ch 1101, §9, 16; 99 Acts, ch 96, §5; 2004 Acts, ch 1175, §453 – 455; 2005 Acts, ch 140, §2; 2007 Acts, ch 213, §21; 2009 Acts, ch 41, §263; 2009 Acts, ch 86, §4; 2012 Acts, ch 1111, §9

Referred to in §34A.2, 34A.7B

[T] Section amended

34A.7B Prepaid wireless E911 surcharge.

1. As used in this section, unless the context otherwise requires:

a. “*Consumer*” means a person who purchases prepaid wireless telecommunications service in a retail transaction.

b. “*Department*” means the department of revenue.

c. “*Prepaid wireless E911 surcharge*” means the surcharge that is required to be collected by a seller from a consumer in the amount established under this section.

d. “*Provider*” means a person who provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.

e. “*Retail transaction*” means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

f. “*Seller*” means a person who sells prepaid wireless telecommunications service to another person.

2. There is imposed a prepaid wireless E911 surcharge of thirty-three cents on each retail transaction or, on or after the determination of an adjusted rate as determined pursuant to subsection 7, the adjusted rate.

3. The prepaid wireless E911 surcharge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 surcharge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

4. For purposes of subsection 3, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of section 423.20 as that section applies to sourcing of a prepaid wireless calling service.

5. The prepaid wireless E911 surcharge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 surcharges that the seller collects from consumers as provided in subsection 3, including all such surcharges that the seller is deemed to collect where the amount of the surcharge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

6. The amount of the prepaid wireless E911 surcharge that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, other surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

7. The prepaid wireless E911 surcharge shall be increased or reduced, as applicable, in an amount proportionate to any change to the surcharge imposed under section 34A.7A, subsection 1. The proportional increase or reduction shall be effective on the first day of the calendar month after the effective date of the change to the surcharge imposed under section 34A.7A, subsection 1. The department shall provide not less than thirty days’ advance notice of such increase or reduction on the department’s internet site.

8. If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, the seller may elect not to apply the prepaid wireless E911 surcharge to the retail transaction. For purposes of this subsection, an amount of service denominated as ten minutes or less, or five dollars or less, shall be regarded as a minimal amount of service.

9. Prepaid wireless E911 surcharges collected by sellers shall be remitted to the department at the times and in the manner provided by chapter 423 with respect to the sales and use tax. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to sellers under chapter 423.

10. A seller may deduct and retain three percent of prepaid wireless E911 surcharges that are collected by the seller from consumers.

11. The audit and appeal procedures applicable under chapter 423 shall apply to prepaid wireless E911 surcharges.

12. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions under chapter 423.

13. The department shall transfer all remitted prepaid wireless E911 surcharges to the treasurer of state for deposit in the E911 emergency communications fund created under section 34A.7A, subsection 2, within thirty days of receipt after deducting an amount, not to exceed two percent of collected surcharges, that shall be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 surcharges.

14. The limitation of actions provisions under section 34A.7, subsection 6, shall apply to providers and sellers of prepaid wireless telecommunications service. In addition, a provider or seller of prepaid wireless telecommunications service shall not be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any lawful investigation or other law enforcement activity by such investigative or law enforcement officer.

15. The prepaid wireless E911 surcharge imposed pursuant to this section shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

2012 Acts, ch 1111, §10, 13, 14

Referred to in §34A.7A

[SP] Section takes effect January 1, 2013, and applies to retail sales of prepaid wireless telecommunications service on or after that date;

2012 Acts, ch 1111, §13, 14

[T] NEW section

34A.8 Local exchange service information — penalty.

1. A local exchange service provider shall furnish to the E911 service provider, designated by the joint E911 service board, all names, addresses, and telephone number information concerning its subscribers which will be served by the E911 system and shall periodically update the local exchange service information. The local exchange service provider shall receive as compensation for the provision of local exchange service information charges according to its tariffs on file with and approved by the Iowa utilities board. The tariff charges shall be the same whether or not the local exchange service provider is designated as the E911 service provider by the joint E911 service board.

2. a. Subscriber information remains the property of the local exchange service provider.

b. The program manager, joint E911 service board, the designated E911 service provider, and the public safety answering point, their agents, employees, and assigns shall use local exchange service information provided by the local exchange service provider solely for the purposes of providing E911 emergency telephone service or providing related 911 call alert services utilizing only the subscriber's information to a subscriber who consents to the provision of such services, and it shall otherwise be kept confidential. A person who violates this section is guilty of a simple misdemeanor.

c. This chapter does not require a local exchange service provider to sell or provide its subscriber names, addresses, or telephone number information to any person other than the E911 service provider designated by the joint E911 service board.

88 Acts, ch 1177, §8

C89, §477B.8

C93, §34A.8

2004 Acts, ch 1175, §456; 2008 Acts, ch 1032, §201; 2009 Acts, ch 32, §1

Referred to in §34A.7

34A.9 Telecommunications devices for the speech and hearing-impaired.

Each public safety answering point shall provide for the installation and use of telecommunications devices for the speech and hearing-impaired.

89 Acts, ch 157, §1

CS89, §477B.9

C93, §34A.9
2004 Acts, ch 1175, §457

34A.10 E911 selective router.

On and after July 1, 2004, only the program manager shall approve access to the E911 selective router.

2004 Acts, ch 1175, §458

34A.11 through 34A.14 Reserved.

34A.15 E911 communications council established — duties.

1. An E911 communications council is established. The council consists of the following thirteen members:

- a. One person appointed by the commissioner of public safety.
- b. One person appointed by the Iowa state sheriffs' and deputies' association.
- c. One person appointed by the Iowa peace officers association.
- d. One person appointed by the Iowa emergency medical services association.
- e. One person appointed by the Iowa professional fire fighters.
- f. One person appointed by the Iowa firefighters association.
- g. One person appointed by the Iowa chapter of the national emergency number association.
- h. One person appointed by the Iowa chapter of the association of public-safety communications officials—international, inc.
- i. One person appointed by the Iowa emergency management directors association.
- j. Two persons appointed by the Iowa telephone association, with one person appointed to represent telephone companies having fifteen thousand or more customers and one person appointed to represent telephone companies having less than fifteen thousand customers.
- k. Two persons appointed by the Iowa wireless industry. One appointee shall represent cellular companies and the other appointee shall represent personal communications services companies.

2. The auditor of state or the auditor of state's designee shall serve as an ex officio nonvoting member.

3. The council shall advise and make recommendations to the administrator and program manager regarding the implementation of this chapter. Such advice and recommendations shall be provided on issues at the request of the administrator or program manager or as deemed necessary by the council.

4. A member of the council shall be reimbursed for actual and necessary expenses incurred in the performance of the member's duties, if such member is not otherwise reimbursed for such expenses.

5. The authority of the council is limited to the issues specifically identified in this section and does not preempt the authority of the utilities board, created in section 474.1, to act on issues within the jurisdiction of the utilities board.

96 Acts, ch 1219, §64; 98 Acts, ch 1101, §10 – 13, 16; 2004 Acts, ch 1175, §459, 460; 2011 Acts, ch 25, §9; 2012 Acts, ch 1023, §9; 2012 Acts, ch 1111, §11

[T] See Code editor's note on simple harmonization at the end of Vol VI

[T] Subsection 1, paragraphs c, e, and h amended

34A.16 through 34A.19 Reserved.

SUBCHAPTER II
E911 PROGRAM FINANCING

Referred to in §16.161

34A.20 E911 financing program — definitions — funding — bonds and notes.

1. As used in this subchapter, unless the context otherwise requires, “*authority*” means the Iowa finance authority.

2. The authority shall cooperate with the administrator in the creation, administration, and funding of the E911 program established in subchapter I.

3. The authority may issue its bonds and notes for the purpose of funding E911 nonrecurring and recurring costs of one or more E911 service areas.

4. The authority may issue its bonds and notes for the purposes of this chapter and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

5. The powers granted the authority under this section are in addition to other powers contained in chapter 16. All other provisions of chapter 16, except section 16.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section, except to the extent they are inconsistent with this section.

6. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax, both personal and corporate.

90 Acts, ch 1144, §6

C91, §477B.20

C93, §34A.20

98 Acts, ch 1101, §14, 16

Referred to in §16.161, 34A.7, 34A.21

34A.21 Security — reserve funds — pledges — nonliability — irrevocable contracts.

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 34A.20 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

a. The income and receipts or other moneys derived from the projects financed with the proceeds of the bonds or notes.

b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.

c. The amounts on deposit in the E911 service fund of a joint E911 service board, including, but not limited to revenues from a local option E911 service surcharge.

d. The amounts payable to the authority by jurisdictions within service areas pursuant to loan agreements with service areas.

e. Any other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection, the proceeds of the sale of its bonds or notes and other money which is made available from any other source.

3. A pledge made in respect of bonds or notes is valid and binding from the time the pledge is made. The money or property so pledged and received after the pledge by the authority is immediately subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, or any other instrument by which a pledge is created needs to be recorded, filed, or perfected under chapter 554, to be valid, binding, or effective against all persons.

4. The members of the authority or persons executing the bonds or notes are not personally liable on the bonds or notes and are not subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The state pledges to and agrees with the holders of bonds or notes issued under this subchapter that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

90 Acts, ch 1144, §7

C91, §477B.21

C93, §34A.21

Referred to in §16.161, 34A.7

34A.22 Rules.

The authority shall adopt rules pursuant to chapter 17A to implement this subchapter.

90 Acts, ch 1144, §8

C91, §477B.22

C93, §34A.22

Referred to in §16.161, 34A.7